

IT 98-0003-GIL 01/07/1998 SUBTRACTION MODIFICATIONS - PREMIUMS PAID BY THE
SELF-EMPLOYED

General Information Letter: Response to questions re self-employed health insurance premiums deducted on Schedule A as itemized deductions.

January 7, 1998

Dear:

This is in response to your fax dated December 29, 1997 in which you request a General Information Letter. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the information you have provided requires that we respond with a general information letter.

In your request you stated:

Enclosed is the correspondence relating to IL Informational Bulletin 96-23. Our current system does follow this Bulletin's instructions even though we do believe there are some flaws in the logic. We would appreciate any input or further guidance. Ultimately, our IL product must follow IL law as it is written, however, it would be appreciated if you would forward this inquiry to those responsible and perhaps a revision or better clarification can be given.

The enclosed letter was from March 1, 1996 and stated:

As a supplier of tax software in Illinois, we are concerned with giving our users the correct interpretation of Illinois state law. We have had an issue arise regarding the new Self Employed Health Insurance deduction and request further clarification.

This correspondence is in regard to the Self Employed Health Insurance deduction available on the 1995 individual IL-1040. Enclosed is a copy of your February 1996 Informational Bulletin which outlines the computation of the deduction. The issue of concern is the decrease in the amount of the deduction by the amount of Self Employed Health Insurance deducted on Federal Schedule A. As you know, the state tax for Illinois is calculated based upon the federal AGI amount. The amount of self-employed health insurance taken on the federal schedule A does not enter into the calculation of that amount. The essential issue we wish to further understand is why those who

have itemized at the federal level should be discouraged from doing so as this will reduce their deduction in Illinois.

The above calculation seems inconsistent because you are in essence discouraging taxpayers from itemizing their deductions at the federal level. The example given in the February 1996 Informational Bulletin clearly illustrates this inconsistency. The example notes that for a self employed taxpayer with health insurance premiums of \$3,000, \$900 will be deducted on page 1 of the federal 1040. The remaining \$2,100 would be deductible at the state level if the taxpayer did not itemize at the federal level. The same taxpayer, who itemizes and has an additional \$7,791 of medical expenses would receive only \$1,181. I do not understand why two taxpayers whose Illinois returns are alike in every way except for the fact that one itemizes deductions and one does not should result in a different Illinois taxable amount.

I would appreciate a response to my inquiry as soon as possible so that I can provide my software users with the appropriate calculation. Thank you in advance for your help in this request.

Department Analysis

Informational Bulletin 96-23 is based on Illinois Income Tax Act ("IITA") Section 203(a)(V) states:

Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 1999, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code of 1986, has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal revenue Code of 1986 not actually deducted on the taxpayer's federal income tax return.

Tax law is grounded in statutory law, and the Department is bound to implement whatever statutes the legislature enacts. In the case of §203(a)(V), the wording of the statute indicates that only medical expenses which are proper deductions under IRC § 213 and which are not actually deducted on the taxpayer's federal return may be deducted for Illinois income tax purposes. Hence, this requires that itemized deductions on one's federal return be included in the deduction computation in IITA §203(a)(V). As a result, the information and example given in Informational Bulletin 96-23 is correct. Itemized deductions on a federal return may lower a person's IITA §203(a)(V) deduction.

If you have additional questions please feel free to contact me at the above address.

Sincerely,

Charles E. Matoesian
Staff Attorney
Income Tax Division